GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – A.P. Secretariat Service - Single Unit – Assignment of notional seniority w.e.f, 13-09-1979 to Sri P. Krishna Sastry, Joint Secretary(Retd.) in the cadre of Assistant Section Officer in the final Seniority list of ASOs published in G.O.Ms.No.186, General Administration(S.U.II) Department, dated 20-6-2003 in terms of A.P.A.T. Orders in O.A. No.6351 of 2013 – Orders – Issued.

GENERAL ADMINISTRATION (SU.II) DEPARTMENT

G.O.MS.No. 228 Dated: 30-07-2016

Read the following:

1. G.O.Ms.No. 378, G.A.(OP.I) Dept., dt:28-07-1982.
2. G.O.Ms.No. 235, G.A.(Ser.B) Dept., dt:08-04-1983.
3. G.O.Ms.No. 458, G.A.(Ser.B) Dept., dt:01-09-1986.
4. Govt.Memo.No.276/Ser.B/79-51, dt:05-12-1986.
5. G.O.Ms.No. 239, G.A.(OP-I) Dept., dt:30-05-1996.
6. G.O.Ms.No. 186, G.A.(SU-II) Dept., dt:20-06-2003.
7. Representation of Sri P. Krishna Sastry and others dated 5-5-2012 & 12-6-2012.
8. Govt.Memo.No.20798/SU-II/A1/2011-2,G.A (SU-II) Dept, dt.18-6-2012.
9. Representation of Sri P.Krishna Sastry dated:26-04-2013 along with copy of A.P.A.T orders in O.A No.5982/ 2012 dated 25-04-2013.
10. Govt. Memo No. 20798/SU-II/A1/2011-3, G.A (SU-II) Dept, dated:13-08-2013.
11. Judgement of A.P.A.T., in O.A.No.6351 of 2013, Dated:15-07-2015.
12. Representation of Sri P. Krishna Sastry, Jt. Secy.(Retd.), Dt.11-09-2015 and Dt.13-04-2016.

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O R D E R:-

In the G.O first read above, orders were issued regularizing the services of certain temporary ASOs promoted from the category of Assistants and Typists / Steno-Typists working in General Administration Department prior to formation of Single Unit.

2. In the G.O second read above, General Administration (SU) Department has been constituted w.e.f. 08-04-1983, for the category of ASOs for integrating the services of ASOs working in all the Departments of Secretariat except Finance & Law Departments. Before formation of General Administration (SU) Department, each department was a separate Unit for the purpose of seniority, transfer and promotion etc., up to the level of Section Officer.

3. In the G.O third read above, the orders were issued to review the promotions made prior to 08-04-1983 to the category of ASOs and consider revision of their dates of regularization, if they are otherwise eligible for such promotion in relaxation of the rules to enable the single unit to finalise the integrated seniority list of all ASOs working in different departments under the control of single unit.

4. The General Administration (OP.I) Department have regularized the services of 49 Asst. Section Officers vide G.O.Ms.No.378, General Administration (OP-I) Department, dated 28-7-82 duly relaxing the Rule 33(a) of General Rules for 16 candidates including Sri P. Krishna Sastry.

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5. After formation of Single Unit, aggrieved by their placements in the seniority list, several Assistant Section Officers of several departments of Secretariat approached the APAT. During the process of the cases, the Hon'ble Tribunal gave several directions from time to time in several cases and General Administration(Ser.)Department in turn advised the departments of Secretariat to review and revise the seniority lists according to the guidelines ordered by the Hon'ble APAT vide Govt. Memo.No.276/ Ser.B/80-3., General Administration (Ser.B) Department, dated 11-3-1980.

6. As per the directions of the Hon'ble APAT dt:7-7-1995 in O.A.No.638/93 and batch cases, among other things, the Hon'ble Tribunal laid down the following guidelines for the purpose of fixation of seniority of ASOs.

> "Relaxation of Rule 33(a) in favour of any individual will not either confer any right on seniority or effect the seniority to be determined under Rule 33, Relaxation of the eligibility criteria for appointment to the post of Assistant Section Officer will have to be ignored".

7. Based on the above guidelines of the Hon'ble Tribunal, the dates of regularization of the Junior Assistants, who were recruited in the year 1978 in General Administration Department through APPSC and promoted in the year 1979 without completion of prescribed period of probation issued earlier in G.O.Ms.No.378, General Administration(OP.I) Department, Dt.28-07-1982 were revised vide G.O.Ms No.239, General Administration (OP.I) Department, dated 20-5-1996 considering the completion of 2 years of minimum period of service in the feeder category and on confirmation theory.

8. After formation of Single Unit, the final seniority list of ASOs appointed in various departments of Secretariat from 01-01-1975 to 31-08-1984 was issued in G.O.Ms.No.186, General Administration(SU-II) Department dated: 20-6-2003. While finalizing the seniority under Rule 33(a) of General Rules, the following basic criteria was followed keeping in view of the orders of the Hon'ble High Court dated 28-08-2002 in W.P.No.11367 and 11368 of 2002.

(a) Wherever the seniority lists have come final by virtue of the orders of the Supreme Court, they were adopted as it is, as they have come final in respect of the seniority of the ASOs therein pertaining to that Department.

(b) Keeping in view of the orders of Supreme Court of India in various departments, the Assistants (earlier called as Jr.Assts.) who were recruited though the APPSC were given ranking above the Assistants and Typists above whose services regularized through S.Q.T. conducted by the APPSC; and

(c) The requisite minimum 2 years of service required in the feeder category for completion of declaration of probation in the feeder category have been followed while assigning the seniority in the higher category, for the reason that without completion of probation in the feeder category one cannot become eligible for promotion to the next higher post.

9. Accordingly, the dates indicated in G.O.Ms.No.239, General Administration(OP.I) Department, dated 30-5-1996 were taken into consideration and incorporated in the final seniority list of ASOs published in G.O.Ms.No.186, General Administration (SU.II) Department, dated: 20-6-2003.

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10. Aggrieved by the final seniority list communicated by General Administration (SU-II) Department, vide G.O.Ms.No.186, General Administration (SU-II) Department, dated 20-6-2003, certain the then ASOs of General Administration Department have submitted representations with a request to restore their original dates of continuous officiation in the category of ASOs as already ordered in G.O.Ms.No.378, General Administration (OP-I) Department, dated 28-7-1982 have filed a O.A.No.7279/2003 with M.A.No.4625/2003 before the APAT. The Hon'ble Tribunal in its interim direction dt:30-12-2003 have directed the Government to pass appropriate orders on the representations of the individuals within a period of two weeks from the date of receipt of the copy of the Tribunal order.

11. The General Administration (OP-I) Department have examined the representations submitted by certain the then ASOs of General Administration Department keeping in view of the peculiar circumstances prevailed in the General Administration Department at that time. As the Junior Assistants who were qualified through S.Q.T and promoted in June/September, 1979 had already put in more than 4 years of service in the feeder category as on the date of their promotion and some of the APPSC Junior Assistants who were also promoted have gained seniority in terms of Court Orders, rule 33(a) has been relaxed in their favour in order to maintain inter-se-seniority and issued regularization orders vide G.O.Ms.No.378, General Administration (OP.I) Department, dated 28-7-1982. In accordance with the orders of the APAT Dt.07-07-1995, the regularisation orders were revised in G.O.Ms.No. 239, General Administration(OP-I) Dept., dt:30-05-1996. Later, in view of the orders of APAT Dt.30-12-2003 in O.A.No.7279/2003, the General Administration (OP.I) Department have issued revised orders in G.O.Ms.NO.350, General Administration (OP.I) Department, dated 28-10-2004, restoring the regularization dates assigned in G.O.Ms.No.378, General Administration (OP.I) Department, dated 28-7-1982.

12. The G.O.Ms.No.350, General Administration (OP.I) Department, dated 28-10-2004, was challenged by certain ASOs in A.P. Administrative Tribunal by filing O.A.No.230/2005. The A.P. Administrative Tribunal in its final orders dated:22-7-2005 has observed that the " impugned G.O.Ms.No.350, dated 28-10-2004 is arbitrary and violative of Article 14 of the Constitution of India and the same is liable to be set aside and accordingly it is set aside. However, this order does not preclude the first respondent to issue notices to affected parties before taking a final decision in the matter".

13. The Government have filed W.P.No.18512/2006 in A.P. High Court against the Judgment of A.P. Administrative Tribunal in O.A.No.230/2005, dated 22-7-2005. The Hon'ble High Court in its order dated 18-9-2006 in W.P.No.18512/2006 have observed that " we see no reason to interfere with the order of the Tribunal more so, since the petitioners herein have now been given the liberty to put the respondents / applicants on notice and thereafter taken a decision in the matter accordingly, dismissed the W.P."

14. In the Memo.No.20798/SU-II/A1/2011-2, General Administration (SU-II),Depart, dt.18-6-2012, fresh notices have been issued to the affected parties calling for objections for assigning notional date of regularisation i.e.13-09-1979 in the category of ASO as per the orders of APAT in O.A.No.230/2005, dt.22-07-2005 and also A.P High Court in WP No.18512/2006, dt.18.09.2006. The said memo was published in AP Gazette through Notification No.351, dt.28-06-2012.

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15. Sri P. Krishna Sastry has filed O.A.No.5982 of 2012 before the Hon'ble APAT seeking direction to the Government to complete the process of revision of seniority list in the cadre of ASO/SO as per Gazette Notification No.351, Dt.28-0-2012 and thereafter to conduct the DPC for selection to the post of Additional Secretary (Non-Cadre) to Government. The Hon'ble A.P.A.T. in its orders dated:25-04-2013 directed the Government to pass appropriate orders regarding notional seniority of the applicant with all consequential benefits on merits and as per rules before considering the case of the applicant for promotion to the post of Additional Secretary to Government (Non-Cadre) if he is otherwise fully qualified and eligible and comes within the zone of consideration as per rules. Sri P. Krishna Sastry has submitted a representation Dt.26-04-2013 requesting to implement the orders. The Government however, in the case of Sri P.Krishna Sastry rejected vide Memo.No.20798/S.U.II/A1/2013-3, General Administration (SU.II) Department, Dt.13-08-2013. Aggrieved by the said memo, Sri P.Krishna Sastry has filed O.A.No.6351/2013 before Hon'ble APAT.

16. The Hon'ble A.P.A.T. in its orders Dt.15-07-2015 in O.A. No.6351/2013 has allowed the O.A filed by Sri P. Krishna Sastry duly setting aside the Government Memo dated 13-08-2013 and directed the respondents to consider the case of the applicant for the post of Additional Secretary (Non cadre) by taking into consideration the dates of regularisation over and above the Junior Assistants of SQT 1979.

17. The Government after careful consideration, in the light of the Hon'ble APAT orders dated 15-07-2015 in O.A.No.6351/2013, Government hereby assign notional seniority to Sri P. Krishna Sastry, Jt. Secretary to Government.(Retd.) in the cadre of ASO with effect from 13-09-1979 as already proposed in the Show Cause Notice issued vide Memo No.20798/SU.II/A1/2011-2, General Administration (SU.II) Department, Dt.18-06-2012 published in A.P. Gazette through Notification No.351, dated 28-06-2012 and his name shall be included in the final seniority list published in G.O.Ms.No.186, General Administration (SU-II) Department, dated 20-06-2003 between Sl.No.409 and Sl.No.410 i.e. below Sri Ch. Gopaiah, and above Sri P. Sankara Rao (expired).

18 The payment of arrears shall be limited to duty period only in terms of Government Memo.No.47260-A/709/A1/ F.R.II/97, Dt.20-4-1998 read with instruction No.III under F.R. 22-B.

19. The General Administration (OP.I)/(S.U.I)/(S.C.F)/(Claims) Department shall take further action in the matter, accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr B. KISHORE
SECRETARY TO GOVERNMENT (SERVICES)

To
Sri P. Krishna Sastry, Jt. Secretary to Government(Retd.),
General Administration Department.
The Genl.Admn.(OP.I/S.U.I/S.C-F/Claims) Depts.
Copy to: The Chief Secy. to Govt. of Telangana, Genl.Admn.(OP.I)Dept.,
The Finance (HR.IV) Dept.,
The Dy.PAO, Secretariat Branch, Hyderabad.
The Accountant General, Andhra Pradesh,/Telangana, Hyderabad.
S.F./S.C.

//FORWARDED :: BY ORDER//

SECTION OFFICER